

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BRIAN EDWARD MEGGINSON, #665944 §

VS. § CIVIL ACTION NO. 6:10cv467

BRAD LIVINGSTON §

ORDER OF DISMISSAL

Plaintiff Brian Edward Megginson, an inmate confined in the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that complaint should be dismissed. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of the Plaintiff are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the lawsuit is **DISMISSED** pursuant to 28 U.S.C. § 1915A(b)(1). It is further

ORDERED that the claims against Executive Director Brad Livingston in his official capacity for damages are **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(2). It is further

ORDERED that all other claims are **DISMISSED** with prejudice to their being asserted again until the *Heck v. Edwards*, 512 U.S. 477, 486-87 (1994) conditions are met. It is further

ORDERED that all other motions by either party not previously ruled on are **DENIED**.

Finally, the Plaintiff is hereby informed that the decision dismissing the civil rights claims as frivolous counts as a strike for purposes of § 1915(g). He is cautioned that once he accumulates three strikes, he may not proceed IFP either in any civil action or in any appeal of a civil action which is filed while he is incarcerated or detained in any facility, unless he is under imminent danger of serious physical injury.

So **ORDERED** and **SIGNED** this 15th day of November, 2010.

A handwritten signature in black ink, appearing to read "LEONARD DAVIS", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized "L" on the left and a "D" on the right.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE